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SENATE

{ REPORT
{ No. 1207

FEDERAL COOPERATIVE MARKETING ACT

FEBRUARY 17 (calendar day, FEBRUARY 21), 1925.—Ordered to be printed

Mr. CAPPER, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany S. 4300]

The Committee on Agriculture, to whom was referred the bill (S. 4300) to create a Federal cooperative marketing board, to provide for the registration of cooperative marketing, clearing house, and terminal market organizations, and for other purposes, having considered the same, report favorably thereon with a recommendation that the bill do pass with the following amendments:

On page 2, line 1, strike out the word "three" and in lieu thereof insert the word "five."

On page 2, line 2, strike out the word "one" and in lieu thereof insert the word "two."

On page 2, line 4, strike out the word "one" and in lieu thereof insert the word "two."

On page 3, line 20, strike out the figures "\$12,000" and in lieu thereof insert the figures "\$10,000."

On page 3, following subdivision "(e)," add a new subdivision "(f)":

(f) The appointment of the five original members and the nomination and appointment of their successors shall be made with due regard to the knowledge and experience of (1) one appointee in the production and marketing of livestock, (2) one in the production and marketing of grain, (3) one in the production and marketing of dairy and poultry products, (4) one in the production and marketing of cotton and tobacco, and (5) one in the production and marketing of fruits and vegetables. Not more than three of the appointed members shall be of the same political party.

On page 4 strike out lines 8 to 11, inclusive, and in lieu thereof insert the following:

(e) May (1) appoint without regard to the provisions of the act of January 16, 1883, as amended, and in accordance with the classification act of 1923, fix the salaries of a secretary, such experts, and such other officers, employees, and agents, and.

On page 6 strike out lines 1 to 6, inclusive, and in lieu thereof insert the following:

(c) To provide for the examination of any registered association and to audit upon the request of such association its accounts, such audit to be made with or without cost, in the discretion of the board; to require from each registered association, not oftener than twice in any fiscal year, a sworn statement in respect of the financial condition of such association.

On page 6, line 10, following the word "product," insert the following: "and the trade rules and regulations, practices, and customs, in respect of such product."

On page 7, line 4, following the word "presented," add the following:

The board is further authorized, in its judgment, to defend cooperative associations from discrimination or boycott, or other unjust or unfair trade, by the proper legal action in any of the courts of the United States, and for such purpose it is authorized to employ counsel either to prosecute or defend such actions.

On page 7, line 13, following the word "any," insert the following: "department of the Government, or any."

On page 7, line 21, strike out the words "whether or not."

On page 7, line 24, strike out the words "whether or not."

On page 8, beginning with the word "Registration," in line 2, strike out the remainder of the paragraph.

On page 8, line 22, following the word "in," insert the word "the" and following the word "case" insert the word "of."

On page 8, line 23, following the word "association," insert the words "that such association."

On page 9, line 13, following the word "product," insert the following: "or the trade rules and regulations, practices, and customs in respect of such product."

On page 9, line 20, following the word "and," insert the word "the."

On page 9, line 21, strike out the words "without cost to it."

On page 9, line 22, following the first word "board," insert the following: "in accordance with the provisions of paragraph (c) of section 21."

On page 9 strike out lines 25 and 26, and on page 10 strike out lines 1, 2, and 3.

On page 10, line 5, strike out the word "due" and in lieu thereof insert the following: "not less than 30 days."

On page 11, line 1, strike out the figures "\$25" and in lieu thereof insert the figures "\$50."

On page 11 strike out lines 8 to 12, inclusive.

On page 12, line 6, strike out the figures "\$25" and in lieu thereof insert the figures "\$100."

On page 12, line 12, following the word "registered," insert the following: "and nonregistered."

On page 13, line 17, strike out the words "subject to the limitations of this act."

On page 14, line 19, following the word "any," add the word "such," and strike out the words "qualified under this act."

On page 15, line 3, following the figure "5," add a subdivision symbol "(a)," and following the word "under" add the words "sections 1 to 3, inclusive, of."

On page 15, line 10, preceding the word "qualified," add the word "so."

On page 15, line 12, following the word "associations," add the word "so," and strike out the following words: "under this act."

On page 15, line 19, following the word "associations," add the word "so" and strike out the words "under this act."

On page 15, line 21, strike out the words "and of Title I of this amendatory act."

On page 15, line 22, following the word "agency," add the following: "specified in subdivision (a) of section 5."

PURPOSE OF THE BILL

The bill reported herewith is based upon the principles laid down by the President's agricultural conference and carries out the recommendations of the conference that have to do with cooperative marketing.

The President's agricultural conference comprises:

Hon. Robert D. Carey, chairman.

O. E. Bradfute, president American Farm Bureau Federation.

Dr. Wm. M. Jardine, Secretary of Agriculture.

Ralph Merritt, president and managing director Sun-Maid Raisin Growers of California.

R. M. Thatcher, director of New York Agricultural Experiment Station.

C. S. Barrett, president Farmers' Union and chairman National Board of Farm Organizations.

Fred H. Bixby, president American National Livestock Association.

Dr. W. C. Coffey, dean College of Agriculture, University of Minnesota.

L. J. Taber, master of National Grange.

The principles and recommendations that are carried out in the bill express the unanimous opinion of the conference. The report to the President by the conference in which they are set forth is signed by each member of the conference. Through the membership of the conference the common desire of the farmers of the United States has been clearly expressed. Governor Carey, Secretary Jardine, Mr. Bradfute, Mr. Barrett, and Mr. Thatcher, of the President's conference, appeared before our committee in support of the bill.

The bill, together with the amendments by the Committee on Agriculture, conforms exactly to H. R. 12348, that has been favorably reported by the Committee on Agriculture of the House of Representatives.

The bill is to create a Federal cooperative marketing board, to provide for the registration of cooperative marketing, clearing house, and terminal market organizations, and for other purposes. Its primary objective is the strengthening and stabilizing of the cooperative marketing system, to the end that agriculture may be placed upon a sound business basis.

The bill proposes to set up a purely voluntary plan of registration for cooperative marketing associations which qualify under the Capper-Volstead Act. There is nothing in the bill to compel any cooperative association to register and there is nothing which will deprive any

association which does not register of any of the rights, privileges, or immunities which it now has under existing law. The bill limits in no manner the freedom of action of the farmer. No restraint is placed upon individual initiative. Moreover, all associations, whether they register or not, will be able, because of amendments made to the Capper-Volstead Act by the bill, to operate without the present day restrictions as to dissemination of crop and marketing information and as to production, pooling, and storing agricultural products.

If the cooperative association chooses to register, it in effect enters into an agreement with the Federal marketing board, which is created by the bill, to settle its disputes in respect to grades and condition of agricultural products and the trade practices in respect to such products through the method of arbitration provided by the board. It becomes entitled to avail itself of an audit approved by the board, to use certain titles on stationery and labels and in its advertising, and it may organize terminal and clearing-house associations of a purely Capper-Volstead character, which will have the same antitrust exemptions as the association itself has.

Following is a digest and explanation of the bill, section by section:

TITLE I

PART 1.—*Federal cooperative marketing board organization*

Section 1 establishes a board to be known as the Federal cooperative marketing board and to be composed of six members. Five of the members are appointed by the President, by and with the advice and consent of the Senate, 2 for terms of one year, 2 for terms of two years, and 1, to be designated as chairman, for a term of three years. The Secretary of Agriculture is the sixth member.

APPOINTMENT AND QUALIFICATIONS OF MEMBERS

Section 2 provides for the manner of appointment and the qualifications of the appointed members. Each of the appointed members must be a citizen of the United States, can not actively engage in any other business, and receives a salary of \$10,000 a year, together with traveling and subsistence expenses. Appointments of successors to the original five members are made for terms of six years. After the first year each appointment is to be made by the President, by and with the advice and consent of the Senate, from a list of 10 individuals, who are nominated in the following manner: Whenever the Secretary of Agriculture finds that a vacancy has occurred or will soon occur, he notifies each registered cooperative marketing association (see sec. 23) that it may cast its vote for an individual to fill such vacancy. After the votes have been cast the names of the 10 individuals receiving the greatest number of votes are submitted by the Secretary of Agriculture to the President as the nominees for such vacancy. In voting and in making the nominations and appointments, due regard must be given so that there will be one appointee who has knowledge and experience in the production and marketing of livestock, one in grain, one in poultry products, one in cotton and tobacco, and one in fruits and vegetables. Not more than three of the appointed members can be of the same political party.

GENERAL POWERS OF BOARD

Section 3 confers upon the board the following general powers: To maintain its principal office in the District of Columbia; to have an official seal; to make an annual report to Congress; to make necessary regulations; to appoint and fix the salaries of officers and employees; and to make the necessary expenditures for carrying out the provisions of the act.

APPROPRIATION

Section 4 provides for an appropriation of \$500,000 for the expense of administering the functions vested in the board.

PART 2.—Registration

SPECIAL POWERS OF BOARD

Section 21 confers upon the board certain special powers as follows:

(a) To aid in surveys and investigations when application is made by groups of producers or by associations desiring to organize, and to make suggestions as to the type of organization suited to the problems of the group or association making application.

(b) To provide for registration of associations as members of the cooperative marketing system and to suspend or revoke their registration.

(c) To examine any registered association, and to audit its accounts if the association so requests, leaving it to the discretion of the board as to whether the audit is to be made with or without cost to the association. The board can require from each association not oftener than twice every year, a sworn statement of the financial condition of the association.

(d) To provide a method of arbitration and settlement of all disputes and to require an association to abide by any award of the board. (See discussion under section 26.)

(e) If application is made, to consider and advise upon problems confronting any agricultural industry and to call upon any department of the Government for assistance in studying such problems, for statistics, or for other appropriate action.

(f) To call a meeting, at least once a year, of representatives of the registered associations to discuss questions of importance, such as the developing of an improved marketing system, grades and standards, elimination of waste, and volume of production.

(g) To cooperate with any department of the Government or of any State or Territory or with any person.

APPLICATION FOR REGISTRATION

Section 22(a) permits any cooperative association qualified under the Capper-Volstead Act or any clearing-house association or terminal-market association, exclusively composed of or operated by such qualified associations, to apply for registration under the act.

Subdivision (b) of section 22 states the purpose of a clearing-house association and of a terminal-market association.

TERMS OF REGISTRATION

Section 23: Under this section, if the board finds that the association which is applying for registration is properly organized under the law, that it is qualified under the Capper-Volstead Act, and that its financial standing and business methods are sound, it shall register the association as a member of the Federal cooperative marketing system and issue to it a certificate of registration, subject to certain conditions. These conditions which the association must agree to are coextensive with the special powers conferred upon the board and stated in section 21. (See also the discussion under section 26.)

SUSPENSION AND REVOCATION

Section 24: Subdivision (a) of this section gives the power to the board, after a notice and hearing, to impose certain penalties, or to suspend or revoke the registration of any registered association if the board finds that such association has violated applicable provisions of the act or regulations of the board.

Subdivision (b) permits any registered association to withdraw as a member of the Federal cooperative marketing system and to obtain revocation of its registration certificate, the withdrawal to be effective after 30 days.

Subdivision (c) permits the board to prescribe and to collect a civil penalty of not more than \$50 a day for violations of the act or of its regulations.

USE OF TITLES

Section 25: This section permits each registered association to use the word "Federal" as a part of its title, and the term "Member of Federal cooperative marketing system" on its stationery and labels and in its advertising, and prescribes a civil penalty of not more than \$100 per day for the unauthorized use of such word or term.

DISPUTES, ARBITRATION, STANDARDS, AND INSPECTION SERVICE

Inasmuch as the board, under section 21 (d), is authorized to provide a method of arbitrating and settling disputes of registered associations as to standards of agricultural products and, as under section 23 (a) (2), the association agrees to avail itself of such method of arbitration and settlement, there should be available to registered associations and their members official standards for agricultural products and an inspection service for certifying the standards of any particular product in order to have a uniform basis of settlement and arbitration. The board also should make use of such standards and inspection for the cooperative marketing system.

Section 26: Under the cotton standards act, grain standards act, the butter standards amendment to the food and drugs act, and section 19 of the United States warehouse act, the Secretary of Agriculture now has sufficient authority to establish standards for all agricultural products. Under the cotton standards act, the grain standards act, and the provision carried annually in the agricultural appropriation act for inspection and certification of the standards of certain perishable agricultural products, the Secretary of Agriculture now has power to inspect and certify as to the standards of practically all agricultural products except tobacco, nuts, and a few minor products. Section 26 extends the power of the Secretary to inspect and certify agricultural products where such power of inspection and certification does not now exist. The enactment of the section will, therefore, result in making the Secretary of Agriculture's power to establish standards for agricultural products and to certify as to the standards of such products coextensive. The provisions of existing law do not make the establishment of standards mandatory, and it obviously follows that unless a standard has first been established for an agricultural product there can be no inspection and certifying of the standard of such product. However, upon the enactment of section 26 it will follow that whenever the Secretary of Agriculture establishes a standard for any agricultural product he will then have the power to provide an inspection service for the certification of such standards upon application. The standards and inspection service and certification provided by existing law and by section 26, are of course, available for all cooperative associations and their members whether or not registered under the cooperative marketing system.

SEPARABILITY OF PROVISIONS

Section 27: This section contains the usual provision in the event the act is declared unconstitutional.

RESERVATION OF RIGHT TO AMEND

Section 28: This section contains the reservation of Congress of its right to alter, amend, or repeal the provisions of the act.

TITLE II

AMENDMENTS TO EXISTING LAW

This title is composed exclusively of amendments to the Capper-Volstead Act. The text of the act as existing law, and as amended by this bill, is shown in Appendices B and C, respectively.

Capper-Volstead cooperatives have hesitated to exchange crop and market information, to carry out production programs, and to pool their products because of the antitrust laws. The President's conference made certain recommendations which would permit them to do these things, the effect of which, if enacted, would

broaden the scope of the Capper-Volstead Act. The applicable text of the President's conference report is as follows:

"Cooperative marketing associations or any of them may pool their products, exchange crop and market information, and make and carry out orderly production and marketing programs."

Moreover, in the Capper-Volstead Act one of the most important provisions is that "such associations may have marketing agencies in common." But the act does not definitely define the status of such marketing agencies, and section 2 of the act, which provides for regulation of "associations" by the Secretary of Agriculture, does not include in its terms the regulation of its marketing agencies. The question, therefore, as to when under the present act a marketing agency is (1) subject to the general antitrust laws, (2) subject only to the regulatory provisions of section 2 of the act, or (3) subject to no restraint of any kind, can not be definitely answered.

In the bill the attempt was made to cover the above problems by specific amendments to the act. The amendment which enlarges section 1 to compose three sections reenacts the existing law and also grants authority to groups of producers composing a Capper-Volstead association (a) to exchange crop and marketing information, (b) to make and carry out the program of orderly production in marketing, and (c) to pool and store products. The amendment also gives the right to the associations themselves in turn to associate for these new purposes and also for the old purposes found in section 1 of the present law. The present law permits associations to "deal" in products of nonmembers and the bill clarifies this term by using the words "pool, process, prepare for market, store, handle, and market" instead of "deal," and thereby removes doubts as to the interpretation of such word. The amendment to the act which adds two new sections after old section 2 of the act (which now becomes section 4) deals specifically with marketing agencies, dividing these into two classes—(1) those which are composed exclusively of Capper-Volstead associations and/or their members and (2) those which are not. The first group are only subject to the regulatory provisions of section 2 (section 4 in the Capper-Volstead Act as amended), while the second group are subject to the antitrust laws which are enumerated in section 6 of the act as amended. A marketing agency not composed exclusively of Capper-Volstead associations and/or their members does not escape the anti trust laws because it happens to serve as an agency for one or more Capper-Volstead associations.

A Capper-Volstead association does not lose its exemption from antitrust laws by reason of the fact that it has as its marketing agent an individual, or a corporation, or association that is not exclusively composed of Capper-Volstead associations and/or their members. However, it must, of course, be borne in mind that if a Capper-Volstead association becomes a member of a marketing association which has among its members other local cooperative associations not qualified under the Capper-Volstead Act, any injunction proceeding, cease and desist order, or penalty under the antitrust laws against the marketing association will, of course, affect adversely the Capper-Volstead association's interest in the marketing association.

APPENDIX A

This appendix presents the message of the President transmitting the preliminary report of the President's agricultural conference, and also includes that part of the report which has to do with the legislation embodied in the bill reported herewith:

To the Congress of the United States:

Transmitted herewith is a preliminary report of the agricultural conference. It embraces such recommendations as the conference wishes to make at this time. I am advised that while it does not refer to some legislation which is already pending, that the conference reserves the privilege of making further suggestions at some future time. As I have great confidence in the personnel of the conference and know that they are representative of a very large part of agriculture, and that they have given very thoughtful study to the entire situation, I recommend that their report be embraced in suitable legislation at the earliest possible date.

CALVIN COOLIDGE.

THE WHITE HOUSE, January 28, 1925.

REPORT TO THE PRESIDENT BY THE AGRICULTURAL CONFERENCE ON AGRICULTURAL LEGISLATION FOR SUBMISSION TO THE SIXTY-EIGHTH CONGRESS

The President's agricultural conference herewith submits its recommendations for agricultural legislation to be considered at the present session of Congress. The conference has considered all of the legislation now pending before the Congress and also has canvassed the field in discussion with the various departments of the Government and with representatives of the agricultural interests of the country.

Agriculture is the most important industry of America. Its complex, widespread, and highly technical problems do not lend themselves to any one remedy or any specific piece of legislation through which there may be found complete cure for its many ills. The problems of agriculture, like the problems of industry, will require constant attention from many points of view and a continuing effort to establish and maintain stability and prosperity. Agriculture is entitled to the same measure of consideration and the same degree of benefits that are received by industry, and therefore needs continuing constructive and sympathetic leadership in the administration of governmental departments as they affect the farmers' interests, and it also needs, from time to time, the type of legislation which already has been described.

In the field of legislation it is important that not only specific problems of the farmers should be solved but also, in general, that there should be given to the American farmer through the application of the protective tariff system the full benefits of American markets. The American farmer can neither compete with imported agricultural products, created through cheap foreign labor and lower standards of living, nor can he compete in foreign markets for the sale of his products at world price levels created by supply and demand arising out of foreign productive standards and foreign buying power. Any form of legislation or plan that tends toward a stimulation of production of any particular commodity for export will result in even further ill balance to our agriculture, and, therefore, continued subjection of American farmers to competition with production based on lower standards of living abroad. There must, therefore, be established a balanced American agriculture by which production is kept in step with the demand of domestic markets and with only such foreign markets as may be profitable. The conference is convinced that this can be done without disproportionate charge upon the American consumer and without the necessity of dislocating the present adjustment involved between the wage scale of the country and the cost of living.

The conference, therefore, makes the following recommendations for consideration by the present Congress:

COOPERATIVE MARKETING LEGISLATION

In considering the legislation now pending before Congress dealing with the cooperative marketing of farm products, the conference finds very many desirable points embodied in several of the proposed bills. Yet no bill presents a completely satisfactory program. Consequently, the conference desires to present the principles which, in its opinion, should be embodied in legislation for passage by the present Congress.

In its discussions with representatives of all departments of the Government on matters affecting agricultural legislation there has been complete unity of support for certain principles which also have the unanimous approval of this conference. These principles have to do with the solution of that portion of the agricultural problem arising out of the development of commodity marketing organizations and the stability which may be brought to agriculture through wider recognition of the need for such organizations and greater confidence in their ability to meet the farmers' problems in much the same manner as industrial problems are solved.

It is the opinion of the conference that the time has arrived to give due emphasis to the fact that the present problems of agriculture rest upon the ability of the farmer to market his goods at a profit, and that constructive assistance to such problems may be found through the development of producers' marketing organizations creating the opportunity for orderly distribution, economies in operation, and adherence to approved standards and grades. As a result of the proper type of cooperative organization it may be expected that commodities so organized will find opportunity for the creation of programs of orderly production, finance and marketing, the development of adequate standards, the

creation of economies in distribution, with larger consequent return to the producers. It is also of vital importance that leadership should be developed in the different commodity groups for the proper and intelligent application of the principles which agriculture must be granted, whether in the field of production, distribution, tariff, transportation, or otherwise.

Finally, it is the purpose of the proposed plan to allow cooperatives a freedom to develop without governmental interference or domination except for the very proper police powers lodged with the Secretary of Agriculture under the Capper-Volstead Act. It is clear, however, that leadership and assistance through the authority of the Government are essential and that greater impulses for the developing of marketing associations will result from a fostering attitude on the part of a Federal agency. The purposes of this plan are to create opportunities for group as well as individual action, based upon the voluntary action of all parties concerned. Legislation on the following lines is therefore recommended:

A. General principles, to be applied upon voluntary action by commodity marketing organizations, producers, and distributors:

1. For the purpose of promoting equitable and advantageous distribution and disposition of their products, cooperative marketing associations or any of them may pool their products, exchange crop and market information, and make and carry out orderly production and marketing programs; and for such purposes producers and distributors of such products may cooperate with such associations.

2. Groups of producers desiring to organize cooperative organizations should be given opportunity for application to the Government to make a survey of the distributing problems involving any commodity, and the Federal agency should make recommendation to the applicants concerning the type of organization best suited to their problem, based upon the demonstration of success among other cooperatives or upon other business principles.

3. Commodity marketing organizations, upon application to the proper Federal agency and purely as a voluntary act, may apply for and be federally registered upon demonstration of the soundness of financial standing of the organization and an agreement to submit their books to Federal inspection for audit semiannually. This step is proposed for two purposes. First, it gives greater confidence to members in the management and operation of their organizations by supplying them with reliable information from a Government source—information which is comparable to that given from time to time by State or Federal bank examiners to depositors about the condition of banks. Second, from such a system uniform general accounting principles will be gradually developed among cooperative commodity organizations by voluntary action. Furthermore, these organizations should agree that in the merchandising of their product they will conform to approved standards.

4. The establishment of grades and standards for various agricultural products of the country is essential. In many lines such standards already are established by State or Federal law, and such standards should receive full recognition in all trade dealings, both domestic and foreign, and should be made the basis of settlement of all disputes. In certain cases standards do not conform to the best interests of the producers, and they should have opportunity to make recommendations as to amendments in existing standards. In many cases there are no standards, and in such an event opportunity should be given to establish standards and grades from time to time upon recommendation to Federal authority by producers who represent at least 60 per cent of the product of the industry.

5. Upon application to the Federal agency distributors at terminal markets may create federally registered exchanges or associations, the members of which shall operate under rules and regulations formulated by them and approved by the Federal authority creating the charter. These rules and regulations shall, among other things, call for recognition of all established grades and standards of agricultural products and arbitration of all disputes under such grades and standards, the guaranty of financial standing of members, and the opening of the accounts of the exchange or association to Federal inspection and audit.

6. Upon application to the Federal agency by an agricultural industry through its cooperative organization the Federal agency should consider and advise upon the problems confronting the industry in any phases of production, financing, or marketing, or upon any other matter which such an agricultural industry may make application for guidance. The Federal agency may call upon any department of the Government for the necessary study of special problems, the furnishing of statistics, or other appropriate action, and should, in conference with the industry, formulate practical solutions for the various problems that may be presented.

B. Principles applicable especially to perishables: The great perishable industry of the country representing the producers of vegetables, fruits, and grapes is at the present time faced with many great problems. For the most part this industry represents an unorganized group of producers, searching for opportunity to solve their problems of distribution through contact with their terminal markets. For such purpose, in addition to those mentioned above, the following is recommended:

Cooperative marketing organizations upon application to Federal authority may have the right to create clearing houses for the purpose of eliminating the oversupply or undersupply in various consuming markets without interference with the restraint of trade laws. Such clearing houses should have the right to freely interchange information upon the volume of the available supplies of their commodity.

C. Federal agency under which such an act is to be administered.

Differences of opinion have appeared among the various Government agencies in their recommendation as to the nature of Federal authority which should administer the principles herewith presented. These differences have been taken into account in the recommendation of the conference. Furthermore, for the proper development of cooperative marketing organizations it is quite apparent that there is need for a central unit which would make available to producers all facilities now in existence and those which might be brought about relating to the different phases of cooperative marketing. Such a unit would act as a coordinating agency, and producers' organizations could get in touch with it directly for any help or assistance they might legitimately seek. The conference concludes, therefore, that in the administration of the various principles herein outlined there should be instituted a separate board, as is now the case in industry and banking. This board would be able to use all the facilities of all Government departments and interlock all the problems of agriculture, both those of production with those of distribution.

The board, as far as the majority of membership is concerned, should arise from the commodity organizations themselves by nomination to the President. There should be created a Federal cooperative marketing board of five members, two members to be the Secretary of Agriculture and the Secretary of Commerce, and three others, including a chairman to be appointed by the President, to be nominated by the federally registered cooperative marketing organizations upon the expiration of the terms of the three members first to be appointed by the President. The salaries of the three appointed members should be \$12,000 a year. They would serve terms of one, two, and three years, respectively, with succeeding members to serve terms of six years each. For the purpose of establishing the board and of carrying on its first year of operation, the sum of \$500,000 should be appropriated.

APPENDIX B

This appendix includes the text of the Capper-Volstead Act as it is found in the existing law. The text does not include the proposed amendments to the Capper-Volstead Act which comprise Title II of the bill reported herewith.

AN ACT To authorize association of producers of agricultural products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers, may act together in associations, corporate or otherwise, with or without capital stock, in collecting processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

SEC. 2. That if the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached or contained therein a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceeding for such association, and such service shall be binding upon such association, the officers, and members thereof.

Approved, February 18, 1922.

APPENDIX C

This appendix shows the Capper-Volstead Act as it will appear if the amendments to it proposed by Title II of the bill reported herewith become law. The substantial changes which the proposed amendments will make in the existing law are shown by the line type and italics, the new matter being shown in italic and the omitted matter in line type. The line type and italics, however, do not represent accurately word for word the changes in the existing law, for the reason that the rearrangement of the existing law, and minor changes in verbiage necessitated thereby, would, if shown accurately word for word, make the text too complex and difficult to follow for practical purposes.

AN ACT To authorize association of producers of agricultural products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That individuals engaged in the production of agricultural products as farmers, planters, ranchers, dairymen, or nut or fruit growers, may act together in associations, corporate or otherwise, with or without capital stock, *and in addition, such associations may act singly or collectively for carrying out in interstate and foreign commerce the following purposes:*

- (a) *Exchanging crop and market information;*
- (b) *Making and carrying out programs for the orderly production and marketing of the agricultural products of individuals so engaged; and*

(c) *Pooling*, processing, preparing for market, *storing*, handling, and marketing such products.

Sec. 2. That such associations—

(a) Shall be operated for the mutual benefit of the members thereof, as such producers;

(b) Shall conform to at least one of the following requirements: First, that no member of the association shall be allowed more than one vote because of the amount of stock or membership capital he may own therein, or, second, that the association shall not pay dividends on stock or membership capital in excess of 8 per cent per annum; and

(c) Shall not ~~deal in~~ *pool, process, prepare for market, store, handle, or market* products of nonmembers to an amount greater in value than such as are handled by it for members.

Sec. 3. That any such association and the members thereof may make the necessary contracts and agreements to effect the purposes specified in section 1.

Sec. 4. That if the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached or contained therein a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceeding for such association, and such service shall be binding upon such association, the officers, and members thereof.

Sec. 5. (a) That associations qualified under sections 1 to 3, inclusive, of this act may have marketing agencies in common to effect the purposes specified in section 1 (including clearing house and terminal market agencies) whether or not such marketing agencies are registered as members of the Federal Cooperative Marketing System and whether or not such marketing agencies are exclusively composed of and operated by associations so qualified and/or members thereof.

(b) Any such marketing agency, if exclusively composed of and operated by associations so qualified and/or members thereof may operate to effect such purposes, notwithstanding the provisions of the acts, or parts thereof, enumerated in section 6, and may make necessary contracts and agreements to effect such purposes; but mar-

keting agencies so composed and operated shall be subject to the provisions of section 4 in the same manner and to the same extent as are associations so qualified.

Sec. 6. That except as provided in section 5, the provisions of this act shall not be held to relieve any marketing agency specified in subdivision (a) of section 5 from the provisions of the following acts:

(a) The act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, as amended, commonly known as the Sherman Act;

(b) The act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended, commonly known as the Clayton Act;

(c) Sections 73 to 77, inclusive, of the act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894, as amended, commonly known as the Wilson Tariff Act;

(d) The act entitled "An act to create a Federal trade commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended;

(e) The packers and stockyards act, 1921;

(f) Section 316 of the tariff act of 1922; or

(g) The grain futures act.



